

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GREGORY CHANDLER,

Defendant-Appellant.

UNPUBLISHED

January 17, 2003

No. 234449

Muskegon Circuit Court

LC No. 00-045300-FH

Before: Meter, P.J., and Neff and Donofrio, JJ.

PER CURIAM.

Defendant was convicted by a jury of uttering and publishing, MCL 750.249. He was sentenced as a fourth-offense habitual offender, MCL 769.12, to 46 months' to 25 years' imprisonment. He appeals as of right. We affirm.

Defendant's sole argument on appeal is that the prosecution failed to prove that defendant possessed the specific intent required for the offense of uttering and publishing. Defendant argues that the prosecution merely showed that he was present during the commission of the crime, but not that he actually intended to defraud anyone. We disagree.

"Evidence is sufficient to sustain a defendant's conviction if, when viewed in a light most favorable to the prosecution, it would enable a rational trier of fact to conclude that the essential elements of the crime were proven beyond a reasonable doubt." *People v Safiedine*, 163 Mich App 25, 29; 414 NW2d 143 (1987). With respect to the question of a defendant's specific intent, evidence solely establishing a defendant's presence at the scene of a crime, without more, is insufficient to support the defendant's conviction as an aider and abettor. *People v Youngblood*, 165 Mich App 381, 386; 418 NW2d 472 (1988). Similarly, evidence of a defendant's mere mental approval, passive acquiescence or consent is also insufficient. *People v Burrell*, 253 Mich 321, 323; 235 NW 170 (1931). Rather, to convict someone of aiding and abetting in the commission of a specific intent crime, the prosecution must prove that such person had either the specific intent required of a principal of the crime, or the knowledge that a principal had such intent. *People v King*, 210 Mich App 425, 431; 534 NW2d 534 (1995). However, because of the difficulty in proving a defendant's state of mind, minimal circumstantial evidence is sufficient. *People v Palmer*, 42 Mich App 549, 551-552; 202 NW2d 536 (1972). Moreover, an aider and abettor's state of mind may be inferred from all the facts and circumstances. See, generally, *People v Hart*, 161 Mich App 630, 635; 411 NW2d 803 (1987). Furthermore, a jury can reasonably infer the requisite intent from a defendant's close association with the principal

and a defendant's participation in the planning or execution of the crime. *People v Anderson*, 166 Mich App 455, 475; 421 NW2d 200 (1988).

Sandra Wood, a teller at National City Bank's drive-up window, identified defendant as the passenger in a car that produced a signed withdrawal slip and a driver's license in the name of Kenneth Hill in an attempt to withdraw money from an account the teller knew to be fraudulent.

Julie Breen, the driver of the car, testified that her passenger attempted to get money from the bank fraudulently and that this passenger had possession of the fraudulent withdrawal slip and driver's license, which he gave to her to hand to teller Sandra Wood.

Detective Christine Burnham, who interviewed defendant after he requested to speak with a detective, told the court that defendant admitted to her that he had participated in the attempted fraud. Burnham further testified that defendant told her that he was offered \$200 by a man named Ivar Joe Spears to pretend to be Kenneth Hill for purposes of making a withdrawal from Hill's bank account and that defendant did not like the idea but went along with it anyway. Burnham repeated for the court numerous specific details of the alleged crime as reported to her by defendant. These included the fact that defendant pretended to sign the withdrawal slip and to hand it to Breen to give to the teller.

Defendant testified that he did not know at the time that what Breen was doing was illegal and that he was unaware that a fraud was being attempted. At the same time, however, defendant admitted knowing that impersonating Kenneth Hill was wrong and that something illegal must have been occurring since Spears asked him to pass for Hill. Defendant stated repeatedly that he knew something was wrong because no one would pay him \$200 to do nothing. Defendant further admitted that it was wrong to pretend to sign his name on the withdrawal slip, that the teller, Sandra Wood, probably believed he had actually signed the slip, and that he had done nothing to indicate to the teller that he had not actually signed it or to inform her that Breen was attempting to commit a fraud.

Thus, the prosecution presented substantial circumstantial and direct evidence to indicate that defendant knew that what he was doing was wrong and that he intended to commit the crime of uttering and publishing. At the same time, although defendant provided some direct testimonial evidence of his innocent state of mind at the time the events in question took place, he also provided a fair amount of directly contradictory testimonial evidence of his awareness that what he was doing was wrong.

We are convinced that, when viewed in the light most favorable to the prosecution, the evidence introduced at trial was sufficient to enable a rational trier of fact to conclude that the essential elements of the crime were proven beyond a reasonable doubt. Accordingly, we affirm defendant's conviction.

Affirmed.

/s/ Patrick M. Meter

/s/ Janet T. Neff

/s/ Pat M. Donofrio